IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No. 775l of 2004

Union of India and ors... petitioners

vs

Shri P V Joshi ... respondent

Mr. Suresh Kumar for petitioners

Mr S.P.Inamdar for respondent

CORAM: A.P.SHAH & S.U.KAMDAR JJ.

lst October, 2004

P.C.

l. Heard advocates for the parties. Perused the judgement of the tribunal.The tribunal has recorded a finding that there was violation of principles of natural justice in as much as while chargesheet was issued by the disciplinary authority i.e. Asst Supdt of Police, the disciplinary authority was also cited as witness for the department. It is clearly impermissible to issue chargesheet and then act as a witness to prove the case.

2. In the instant case the Enquiry Officer had exonerated the respondent in his report but the disciplinary authority had disagreed with the Enquiry Officer. No opportunity of hearing was afforded to the respondent before taking final decision . This is clearly in violation of the law laid down by the Supreme Court in Yoginath D Bagade vs. State of Maharashtra and anr, l999(2) SLJ 324. In the circumstances, the tribunal was right in holding that the inquiry proceedings are vitiated due to violation of principles of natural justice. No interference is called for with the finding recorded by the tribunal. Petition is dismissed.